



Meeting note

File reference	EN010049
Status	Draft
Author	Katherine King
Date	20 October 2015
Meeting with	Tidal Lagoon Power (TLP)
Venue	Rivergate offices, The Planning Inspectorate
Attendees	Alex Herbert (Head of Consents) Michael Baker (Consents Planner) Rachel Hall (Consents Co-ordinator) Alex Blake (Consents planner) Rebecca Smith (EIA Advisor) Harriet Thomas (EIA Advisor) Katherine King (Case Manager) Tom Carpen (Infrastructure Planning Lead) Kathryn Powel (Infrastructure Planning Lead) Frances Russell (EIA and Land Rights Manager) Marie Evans (Senior EIA and Land Rights Advisor)
Meeting objectives	Discussion and feedback in relation the Tidal Lagoon Swansea Bay examination
Circulation	All

Summary of key points discussed and advice given:

TLP were made aware of the Planning Inspectorate's (the Inspectorate) openness policy and that any advice given would be recorded and placed on the Inspectorate's website under section 51 of the Planning Act 2008 (PA 2008). Any advice given does not constitute legal advice upon which the applicant (or others) can rely.

The agenda for the meeting was focussed on the stages of the application process with the aim of TLP and the Inspectorate providing feedback to assist future applications.

Pre-application

Consultation

The 'effectiveness' of the consultation was discussed. The Inspectorate provided the following comments.

- The consultation undertaken met the tests as set out in s55 of the PA 2008.

- Correspondence was received from groups with fishing interests expressing concerns with consultation with them as a group.
- Correspondence was received from Natural Resources Wales (NRW) stating that matters had not been discussed fully during pre-application.

The Inspectorate advised that in relation to future projects, it would be helpful to have Statements of Common Ground (SoCG) prepared before submitting an application. The Inspectorate commented on the importance of consultation at the pre-application stage, whilst also noting that consultation should not end at the point of application submission. The Inspectorate directed TLP to Advice Note 11 in respect of working with public bodies.

The Inspectorate explained that potential options for future consultation could include consultation on a wider vision of the project which the NSIP may be part of, this would enable development in Wales which is not covered by the PA 2008 to be included. If this approach were to be adopted, then the Inspectorate advised TLP to be clear on the consenting regimes for each constituent part.

TLP explained that getting SoCGs agreed by parties can sometimes be difficult, furthermore some parties feel that agreeing matters may prejudice their position during examination. The Inspectorate emphasised that SoCGs are a note of matters at set periods in time and can be updated throughout the examination and therefore amended. This therefore does not prejudice any matters being raised during the examination.

Preliminary Environmental Information (PEI)

TLP requested further guidance from the Inspectorate in relation to PEI. The Inspectorate pointed TLP to Advice Note 7. The Inspectorate advised that TLP speak with statutory consultees about the amount of information that they would like to be consulted upon at this stage. TLP noted the comments that were made by consultees on Tidal Lagoon Swansea Bay (TLSB) and have reviewed their consultation programme on future projects to include (currently timetabled) consultation on a draft Environmental Statement (ES).

Inspectorate advice and engagement

TLP felt that it would have been helpful if further advice was provided by the Inspectorate (in liaison with Welsh Government and the Department of Energy and Climate Change) in relation to associated development.

The Inspectorate explained that at the pre-application stage for the TLSB proposal, only a limited number of PA 2008 applications had been determined in Wales, and that TLSB was on a much greater scale, incorporating certain types of development which had not previously been part of a PA 2008 application before.

In regard to what can be determined as part of a NSIP application, the Inspectorate advises that the devolution settlement is considered and adhered to, and early engagement is undertaken with the production of SOCGs between applicants, Welsh Government and local authorities.

It was agreed that this was a matter that the Inspectorate would follow up with TLP about after the meeting to assist where possible with further applications.

Acceptance

Presentation of the application

The Inspectorate noted that some of the documents were hard to navigate as a result of them having a large (in MB) image on the front cover of the documents. This image took a while to load and the title of documents could not be seen until the image had loaded.

In relation to the number of copies of documents provided, the Inspectorate advised TLP that it was very likely that any future project would be examined by a panel of five Examining Inspectors as a result of the novelty of the projects and their potential size and complexity. Therefore TLP would be required to provide paper copies of the application documents for all members of the Panel and the office. The requirement for paper copies of submissions was discussed under the examination section of the meeting.

The Inspectorate received correspondence from NRW during acceptance. There is no procedure set out in legislation as to how such correspondence should be dealt with therefore it is advisable for applicants to try and agree as many matters as possible before submission. Where agreement cannot be reached, it is important for any meetings/consultation to be documented in the consultation report so that the Inspectorate can be clear that the s55 tests have been met.

The project documents were subject to a Freedom of Information request during acceptance and were therefore released into the public domain during the acceptance period. It is now common practice, with the agreement of the applicant, to publish application documents upon submission.

The Inspectorate noted that on submission for acceptance some of the figures within the Environmental Statement (ES) were found to be reproduced at too small a size to be legible. Furthermore, the description of the development varied between the ES and the draft DCO. It is important to ensure consistency in the description of the development between all application documents.

The Inspectorate recommended, as it would to all applicants, for TLP to reflect on the s55 checklist and the s51 advice provided following acceptance. Often reading such advice again enables applicants to reflect objectively and address any issues in future applications.

Specific matters to consider in future applications include;

- Ensuring complete consistency in application documents
- Be explicit in the DCO in relation to limits of deviation and size limits
- Reduce if not eliminate 'options' within a DCO.
- Ensure that documents are in their final form before submission to reduce changes to documentation during the examination.
- Develop SoCGs with all relevant parties before the submission of an application.

Pre-examination

Discussion was held in relation to the certification of s56 and s59 of PA 2008. TLP chose to notify of the acceptance decision promptly and commence the relevant representation period quickly. In hindsight, a greater period between the acceptance

of the application and the commencement of relevant representation would have assisted all parties in enabling greater preparation.

The appointment of five Examining Inspectors was discussed and the cost implications, as previously noted, the Inspectorate expressed that this was justified as a result of the technical content, size and uniqueness of the case.

The need to hold the venue used for the Preliminary Meeting for two days was raised. This was a matter discussed with TLP prior to the booking. The booking was made on a risk based approach, the main factor being that TLP was keen for no delay to the start of the examination. In future this could be reduced.

A number of documents were submitted by TLP during the pre-examination period. This has been reflected on above in relation to how this is not best practice. Having said that, the Inspectorate also note that submission prior to the Preliminary Meeting is helpful in enabling all parties to have all information prior to the submission of written representations.

Examination

TLP expressed concern in relation to the cost to applicants and indeed other interested parties in providing paper copies of all submissions. The Inspectorate noted this and have reviewed procedures. Applications that are currently in examination are reviewed electronically where practicable. It was however noted that paper copies of certain documents are still required. These include ES documents and all plans.

The Inspectorate aims to work with applicants and other interested parties to ensure that documents are submitted with descriptions and indexes that assist the reader wherever possible. This should assist with electronic working.

TLP noted the quick uploading of documents on the Project webpage; however, also noted that the order in which documents are displayed on the website is not helpful to users. Since the TLSB project, the Inspectorate explained that all examinations have a live Examination Library which sets out all documents, via hyperlinks and in order, within one document.

The Inspectorate suggested that a ship simulation study be considered prior to submission of future applications for tidal lagoons, as this became an issue during the examination.

Communication

TLP were pleased with the communication from the Inspectorate. The Inspectorate noted that on other cases, it has become routine to have weekly telecoms with the applicant to discuss logistical issues. The discussions during the telecoms relate to the organisation of hearings, issuing of notifications, and organisation of site inspections. They do not discuss the examination proceedings. It was noted that a central point of communication was set up by TLP and that this was very useful.

TLP also recognised the need for and usefulness of formal consultation on documents during the examination to enable matters raised during examination to be introduced in a fair and open matter. This was suggested by the ExA to ensure that parties outside of the examination were made aware of changes to the application. The

Inspectorate agreed with TLP but also noted that, where possible, changes to applications should be restricted to reduce the need for such consultation.

The Inspectorate suggested that communication between the Inspectorate and TLP could have been improved in relation to transboundary issues. The Inspectorate advised that applicants should draw to the Inspectorate's attention any information that would be relevant to the identification of likely significant effects on another EEA State at an appropriate time, in accordance with PINS Advice Note 12.

Specific decisions / follow up required?

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